UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,625	08/25/2003	Nageshwar Aita	Aita 1-1-1-2-1-2 (LCNT/12	5323

46363 7590 04/01/2009

WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

EXAMINER	
THERIAULT, STEVEN B	
ART UNIT	PAPER NUMBER
2179	

MAIL DATE	DELIVERY MODE
04/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/648,625	AITA ET AL.	
	Examiner	Art Unit	
	STEVEN B. THERIAULT	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the following communications: amendment and arguments filed 01/08/2009

This action is made final.

2. Claims 1 -22 are pending in the case. Claims 1, 6 and 22 are the independent claims. Claim 22 is a new claim.

The double patenting rejection is retained.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.
Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1 and 6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 13 of U.S. Patent No. 7,305,623 (hereinafter 623'). Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the claims and subject matter disclosed as substantially similar. For example the claims and identical feature mapping are as follows:

Claim1 of present application:

I.(currently amended) A method for provisioning a circuit via a plurality of network elements comprising: (a) graphically representing said network elements within a network as a plurality of network element objects;(b) graphically representing a communications link between two network elements as a bridge object disposed between two of said plurality of network element objects;(c) graphically representing the status of cross-connection links within said network elements as an icon displayed on each of said Linked network element objects; and(d) selecting at least some of wherein said network element objects and bridge objects ~~be manipulated by a user~~ to form a graphical representation of the circuit being provisioned;, wherein said selected network element objects are selected by a user, and comprise a start node, an end node and at least one intermediate node between the start and end nodes.

Claim 1 of 623' application:

1. A method for provisioning a circuit between a starting network element and an ending network element, comprising: (a) representing network elements within a network as a plurality of area objects, each area object including a plurality of the network elements; (b) representing communications links between two area objects as a bridge object, each bridge object having at least one communications link between any of the plurality of network elements in a first of the two area objects and any of the plurality of network elements in a second of the two area objects, each communications link comprising at least one communications channel; (c) iteratively performing the following tasks using the area objects and bridge objects until selections enabling the provisioning of said circuit are made: (c1) expanding a selected area object to display the corresponding plurality of network elements and selecting at least one of the displayed network elements; (c2) expanding a selected bridge to display the corresponding at least one communications link and selecting at least one of the displayed communications links; (c3) highlighting each selected network element, communications link and communications channel; (d) adding each selected area object and each selected bridge object to an area submap and adding each selected network element and each selected communication link to a node submap, said area submap and said node submap being used to generate respective first and second images in a graphical user interface
(GUI).

Claim 6 of present application:

6.(currently amended) A graphical user interface (GUI) for use in provisioning a circuit comprising:
a plurality of network element objects, each network element object representing a respective element within a network and having a status icon associated with the network element object; a plurality of bridge objects, representing a respective communications channel within the network; wherein: in response to a user selection of [a] at least some network element object the network elements corresponding to the selected network is selected for use in provisioning [a] the circuit; and its each corresponding status icon displays information as to the status of a communications channel ~~-~~associated with the respective selected network element and wherein said selected network elements comprise a start node. an end node and at least one intermediate node between the start and end nodes.

Claim 13 of 623' application:

13. A graphical user interface (GUI), comprising: a plurality of area objects, each area object comprising a plurality of network element objects, each network element object representing a respective element within a network; a plurality of bridge objects, each bridge object comprising at least one communications link object between any of the plurality of network element objects in a first of the two area objects and any of the plurality of network element objects in a second of the two area objects, each communications link object comprising at least one channel object, each channel object representing a respective communications channel within the network; wherein: in response to a user selection of an area object, the selected area object is expanded to graphically represent its constituent network element objects and an instance of the selected area object is generated for use in an area submap; in response to a user selection of a bridge object, the selected bridge object Is expanded to graphically represent its constituent communications link objects and an instance of the selected bridge object is generated for use in an area submap; in response to a user selection of a network element object the network element corresponding to the selected network object is selected for use in a circuit and an instance of the selected network element object is generated for use in a node submap; in

response to a user selection of a communications link object, the selected communications link object is expanded to graphically represent its constituent channel objects and an instance of the selected communications link object is generated for use in a node submap; in response to a user selection of a channel object, the channel corresponding to the selected network object is selected for use in a circuit; adding each area object instance and each bridge object instance to said area submap, said area submap being used to generate a first image in said GUI; and adding each network element object instance and each communications link object instance to said node submap, said node submap being used to generate a second image in said GUI.

In comparing the sets of claims it is clearly evident that both sets of claims deal with provisioning a circuit. In comparing claim 1 of both applications the first two limitations contain a similar scope and structure of graphically representing network elements in a GUI and showing the communications links between the connected elements on the network. Both claims deal with bridge connections and displaying a set of nodes of a submap that can comprise several network elements. Claim 1 of the 623' application does not recite the display of status information but the disclosure states that link breakage or circuit breakage and restoration is shown graphically in the interface, where the communications links in the 623' represents graphically a channel object that can show status and therefore the first set of claims appear to be substantially similar in scope. In comparing claims 6 and 13, represent the graphical user interface that provides the user a metaphor to provision the network and contain substantially similar subject matter as claim 1 of both applications. The obvious variation to one of ordinary skill in the art at the time of the filing of the invention in claims 1 and 6 of the present application, is to provide the icons on the map of the 623' application with the ability to convey information to the user regarding the connection or communication link that is graphically represented as breaking and being restored as shown in the 623' patent. Further, the present application claims the provisioning of a start node and an end node with an intermediate in between as is disclosed in the 623' (see column 4, lines 40-67).

While the claims appear to have different features, as the patent claims to 623' are narrow and contain more limitations, nonetheless the scope of both claims overlap and do not appear to be distinct and therefore the obvious double patenting rejection is determined to be proper.

Applicant's response

Applicant responds to the double patenting rejection stating that they cannot evaluate the correctness of any suggested double patenting rejection. In response the Examiner is maintaining the obvious double patenting rejection as the claim amendment does not obviate the rejection from the claims of the patented 623' application. This is a provisional double patenting rejection as the claims in the present application have not been patented. However, the applicant is directed to MPEP chapter 804.02 (iv) for the mechanisms to avoid a double patenting rejection and in particular to the discussion and requirements of Terminal Disclaimers to overcome nonstatutory double patenting rejections with applications filed after June 8, 1995.

Claim Rejections - 35 USC § 103

5. **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966),

that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1-2, 5-8, 22 are rejected under 35 U.S.C. 102(a, e) as anticipated by Despotidis et al. (hereinafter Despotidis) U.S. Patent No. 7,305,623 issued Dec. 4, 2007 and filed Dec. 3, 2001 or, in the alternative, under 35 U.S.C. 103(a) as obvious over Despotidis in view of Planas et al. (hereinafter Planas) U.S. Patent No. 6112015.**

The applied reference has a common assignee but a different inventive entity and one inventor in common with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(a and e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131. However, this rejection under 102(a) is appropriate due the publication 20030103077 being published June 5, 2003 prior to the 08/25/2003 filing of the present application.

In regard to **Independent claim 1,** Despotidis teaches a method for provisioning a circuit via a plurality of network elements comprising:

(a) graphically representing said network elements within a network as a plurality of network element objects (See Figure 5, as network elements are graphically displayed).

(b) graphically representing a communications link between two network elements as a bridge object disposed between two of said plurality of network element objects (See Fig. 5 cont), that shows communications links between nodes and See column 7, lines 30-50)

(c) graphically representing the status of cross-connection links within said network elements as respective icons displayed on said respective network element objects (See column 4, lines 25-67 and column 5, lines 57-67 and column 6, lines 1-11). Despotidis teaches that the icons or graphical elements represent the physical elements with the network and are updated dynamically as the circuits are provisioned and the links are graphically represented.

(d) selecting at least some of wherein said network element objects and bridge objects to form a graphical representation of the circuit being provisioned; wherein said selected network element objects are selected by a user, and comprise a start node, an end node and at least one intermediate node between the start and end nodes (See column 2, lines 32-47 and column 4, lines 25-67 and column 7, lines 30-67). Despotidis expressly teaches connecting network elements from a start node and an end node.

In the alternative, if the graphical representation of the status of the network cross connection links as respective icons that are displayed on the network element icons cannot be interpreted as shown in Despotidis, then in the alternative the teachings of Planas can be relied upon. Planas shows a (See figure 2e, 2f, 15, and 21c and tables 5-12 showing the OSI alerts) icon that can convey status and state to the user where the icons clearly show the network connections and nodes that are provisioned in the system (See column 5, lines 12-65 and column 6, lines 35-67). Planas expressly conveys that the icons show the cross connection with a node icon as a square and another icon to show the cross connect directly on the node icon. Planas and Despotidis are analogous art because they both discuss the show the process of provisioning a network, displaying icons to convey a status and to use the information to manage a network.

Accordingly it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Despotidis and Planas in front of them, to modify the system of Despotidis to include the status icons of Planas for the purposes of conveying status to the user (See column 5, lines 60-65). The motivation to combine Planas and Despotidis is to provide status on an icon where the icons can be modified based on the state of the node that the icon represents for the purposes of expressing in a visual language the status of a network without consuming excessive space on the display screen (See column 1, lines 40-67).

With respect to **dependent claim 2,** Despotidis teaches a method wherein for each of the network element objects the icon is selected from the group consisting a set of colors, a set of images, shapes, symbols, objects, and text (See Figure 3-5 and 10). Despotidis teaches a network element is shown a square and an area is shown as a circle. The square with dots in it represents the higher level area depictions and circles with agg. in them show aggregate areas. Therefore, the interfaces of Despotidis are shown to have icons with shapes. Despotidis teaches that the icons or graphical elements represent the physical elements with the network and are updated dynamically as the circuits are provisioned and the links are graphically represented (See column 5, lines 57-67 and column 6, lines 1-11). In the alternative, Planas clearly shows (See figure 2e, 2f and 15) where each of the element icons (nodes) have a set of status icons that are symbols.

With respect to **dependent claim 5,** Despotidis teaches a method wherein each bridge object has at least one communications link, each communications link comprising at least one channel for establishing a communication path between two of the plurality of network elements (See column 4, lines 20-67).

With respect to **Independent claim 6,** Despotidis teaches an apparatus for use in provisioning a circuit comprising:

- A memory, for storing a program adapted for generating imagery representing information for use in provisioning a circuit (See figure 1, memory 136, processor 134 and system 130).
- A processor, for executing the program to perform thereby the steps of generating imagery (See column 3,lines 50-57) comprising a plurality of network element objects, each network element object representing a respective element within a network and having displayed thereon an associated status icon representing the status of cross-connection links within the said network element (See Figure 5, as network elements are graphically displayed and column 5, lines 57-67 and column 6, lines 1-11 and column 4, lines 25-40). Despotidis teaches graphically indicating on the node in a dynamic fashion the linked state of a node.
- Generating imagery comprising a plurality of bridge objects, each bridge object representing a respective communications link between two of said network elements (See Fig. 5 and column 3,lines 50-67), that shows communications links between nodes and See column 7, lines 30-50) Despotidis shows bridge connection B4 between elements on a network (See figure 10). B3 connection is also a bridge therefore b3 and b4 represent a plurality of bridge objects. Despotidis states that each bridge includes at least one communication link (See column 11, lines 45-56) and the links are shown in figure 10).
- Wherein: in response to an indication of (See column 4,lines 40-50 and column 6, lines 1-12)a user selection of at least some network element object the network elements corresponding to the selected network objects are selected for use in provisioning the circuit; (See column 4, lines 25-67) wherein said selected network elements comprise a start node. an end node and at least one intermediate node between the start and end

nodes(See column 2, lines 32-47 and column 4, lines 25-67 and column 7, lines 30-67). Despotidis expressly teaches connecting network elements from a start node and an end node. Despotidis clearly shows (See figure 10 and column 11, lines 55-67) the interface representing nodes that are to be provisioned by the user (See also column 10, lines 12-24).

In the alternative, if the respective element within a network having status displayed thereon an associated status icon representing the status of cross-connection links within the said network element cannot be interpreted as shown in Despotidis, then in the alternative the teachings of Planas can be relied upon. Planas shows a (See figure 2e, 2f, 15, and 21c) icon that can convey status and state to the user where the icons clearly show the network connections and nodes that are provisioned in the system (See column 5, lines 12-65 and column 6, lines 35-67). Planas expressly conveys that the icons show the cross connection with a node icon as a square and another icon to show the cross connect directly on the node icon. Planas and Despotidis are analogous art because they both discuss the show the process of provisioning a network, displaying icons to convey a status and to use the information to manage a network.

Accordingly it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Despotidis and Planas in front of them, to modify the system of Despotidis to include the status icons of Planas for the purposes of conveying status to the user (See column 5, lines 60-65). The motivation to combine Planas and Despotidis is to provide status on an icon where the icons can be modified based on the state of the node that the icon represents for the purposes of expressing in a visual language the status of a network without consuming excessive space on the display screen (See column 1, lines 40-67).

With respect to **dependent claim 7,** Despotidis teaches a apparatus wherein each bridge object further comprises at least one communications link object, each communications link object

comprising at least one channel object, each channel object representing the communization channel (See column 4, lines 25-40 and column 6, lines 1-12).

With respect to **dependent claim 8,** Despotidis teaches a apparatus wherein for each of the network objects the status icon is selected from the group consisting of colors, shapes, symbols, objects and text (See Figure 3-5 and 10). Despotidis teaches a network element is shown a square and an area is shown as a circle. The square with dots in it represents the higher level area depictions and circles with gag. in them show aggregate areas. Therefore, the interfaces of Despotidis are shown to have icons with shapes. Despotidis teaches that the icons or graphical elements represent the physical elements with the network and are updated dynamically as the circuits are provisioned and the links are graphically represented (See column 5, lines 57-67 and column 6, lines 1-11). In the alternative, Planas clearly shows (See figure 2e, 2f and 15) where each of the element icons (nodes) have a set of status icons that are symbols.

In regard to **Independent claim 22,** Despotidis teaches an apparatus for use in provisioning a circuit, comprising:

It is noted the examiner that the following was relied upon to determine the means plus function within the following claim:

[0021] The workstation 130 **generates graphical user interface (GUI) imagery that is displayed on the display device 150.** The displayed imagery representing a network map is modified according to the present invention to represent the status of the cross-connects within network elements specified by a workstation operator. The exemplary work station 130 comprises a processor 134 as well as memory 135 for storing various programs 136. The processor 134 cooperates with conventional support circuitry 133 such as power supplies, clock circuits, cache memory and the like as well as circuits that assist in executing the software routines stored in the memory 135. As such, it is contemplated that some of the process steps discussed herein as software processes may be implemented within hardware, for example, as circuitry that cooperates with the processor 134 to perform various steps. The work station 130 contains input-output circuitry 132 that forms an interface between the various functional elements communicating with the work station 130.

- Means for generating imagery comprising a plurality of network element objects (See column 3, lines 50-57), each network element object representing a respective network element within a network and having displayed thereon an associated status icon

representing the status of cross- connections links within said network element (See column 4, lines 25-67 and column 5, lines 57-67 and column 6, lines 1-11). Despotidis teaches that the icons or graphical elements represent the physical elements with the network and are updated dynamically as the circuits are provisioned and the links are graphically represented. The status in the claim does not indicate what is displayed to the user other than a status. Therefore, displaying parameters to the user as the circuit is provisioned is a status.

- Means for generating imagery comprising a plurality of bridge objects, each bridge object representing a respective communications link between two of said network elements (See column 4,lines 25-50 and column 6, lines 10-34 and column 9,lines 40-67 and column 10, lines 55-67) wherein, in response to an indication of a user selection of at least some network element objects, the network elements corresponding to the selected network objects are selected for use in provisioning the circuit; wherein said selected network elements comprise a start node, an end node and at least one intermediate node between the start and end nodes(See column 4, lines 25-67 and column 5, lines 57-67 and column 6, lines 1-11). Despotidis teaches that the icons or graphical elements represent the physical elements with the network and are updated dynamically as the circuits are provisioned and the links are graphically represented. Despotidis teaches displaying imagery within the GUI that represents network elements and the user interacting with the elements. (column 3, lines 60-67) clearly outlines the user is provisioning a circuit between a start and end node but can also include an intermediate node as shown in figure 5 and column 7,lines 55-67).

In the alternative, if the graphical representation of the status of the network cross connection links as respective icons that are displayed on the network element icons cannot be interpreted

as shown in Despotidis, then in the alternative the teachings of Planas can be relied upon. Planas shows a (See figure 2e, 2f, 15, and 21c and tables 5-12 showing the OSI alerts) icon that can convey status and state to the user where the icons clearly show the network connections and nodes that are provisioned in the system (See column 5, lines 12-65 and column 6, lines 35-67). Planas expressly conveys that the icons show the cross connection with a node icon as a square and another icon to show the cross connect directly on the node icon. Planas and Despotidis are analogous art because they both discuss the show the process of provisioning a network, displaying icons to convey a status and to use the information to manage a network.

Accordingly it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Despotidis and Planas in front of them, to modify the system of Despotidis to include the status icons of Planas for the purposes of conveying status to the user (See column 5, lines 60-65). The motivation to combine Planas and Despotidis is to provide status on an icon where the icons can be modified based on the state of the node that the icon represents for the purposes of expressing in a visual language the status of a network without consuming excessive space on the display screen (See column 1, lines 40-67).

6. **Claim 3-4, 9-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Despotidis et al. (hereinafter Despotidis) U.S. Patent No. 7,305,623 issued Dec. 4, 2007 and filed Dec. 3, 2001, in view of Planas et al. (hereinafter Planas) U.S. Patent No. 6112015.**

With respect to **dependent claims 3-4 and 9-21,** as indicated in the above rejection Despotidis teaches every element of claims 1 and 6.

Despotidis does not expressly teach the method *wherein the icon uses a set of colors and each color of said set corresponds to a particular connection state and cross-connection state within each network element and wherein the set of colors consists of a list of seven colors and wherein the colors represent the status of a the cross connection links within the respective network*

element for which the status icons are displayed wherein a first color represents a cross-connection locally in a management system database not yet set to a network element wherein said first color is black and wherein a second color represents an active cross connection created by craft terminal interface/element management system CIT/EMS and wherein said second color is green and wherein a third color represents a pending cross-connection and wherein said third color is gray and wherein a fourth color represents a partial cross-connect state and wherein said fourth color is red and wherein a fifth color represents an improper disconnect state of the cross-connection and wherein said fifth color is orange and wherein a sixth color represents an "intent to delete" state of the cross-connect and wherein said sixth color is magenta.

However, Planas shows a cross connection icons where the icons use a set of colors to reflect status and state. For example, Planas uses default **flexible colors set by the administrator such as** grey-born, grey-green and grey-blue to reflect status (See Figure 21c and column 6, lines 60-67 and column 7, lines 1-15). Planas also shows that the system displays node icons for cross connects and status (See column 5, lines 13-40 and column 8, lines 17-67). Planas teaches other colors are used to represent the modifier icons that reflect alarm status for a given node (See column 12, lines 19-63). Not only can the nodes be displayed with a degree of transparent or translucency, which is a degree of blending in the interface that can comprise a series of colors but Planas, teaches that additional states and modifier icons are provided but not shown to show the complete status of the OSI model (See column 14, lines 10-20). Further, Planas shows states represented on the icons (See column 18, lines 1-45) which can be a improper disconnect state, intent to delete, pending cross connect communications, etc. because the states follow the Bell core standard but can include the ITU-T standard and the OSI model standard states and status (See column 9, lines 10-42 and column 17, lines 10-20 and column 18, lines45-50). Therefore, the colors can be set by an administrator to reflect a given state and the states can show an active connection, partial cross connect state, improperly disconnected state, and the intent to delete state because the skilled artisan be interpret an in-service state as active, a connected to

transmit but not to receive as a partial cross connect, a red lined status as an intent to delete and a terminated from as a improperly disconnected state. While these are examples from the status in the tables, Planas suggests there are additional states in the OSI model which would convey to the artisan that the purpose of Planas is to convey status graphically for the purposes of allowing a user to see the status of the network.

The motivation to combine Planas and Despotidis is to provide status on an icon where the icons can be modified based on the state of the node that the icon represents for the purposes of expressing in a visual language the status of a network without consuming excessive space on the display screen (See column 1, lines 40-67).

A reference to specific paragraphs, columns, pages, or figures in a cited prior art reference is not limited to preferred embodiments or any specific examples. It is well settled that a prior art reference, in its entirety, must be considered for all that it expressly teaches and fairly suggests to one having ordinary skill in the art. Stated differently, a prior art disclosure reading on a limitation of Applicant's claim cannot be ignored on the ground that other embodiments disclosed were instead cited. Therefore, the Examiner's citation to a specific portion of a single prior art reference is not intended to exclusively dictate, but rather, to demonstrate an exemplary disclosure commensurate with the specific limitations being addressed. In re *Heck*, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re *Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). In re: *Upsher-Smith Labs. v. Pamlab, LLC*, 412 F.3d 1319, 1323, 75 USPQ2d 1213, 1215 (Fed. Cir. 2005); *In re Fritch*, 972 F.2d 1260, 1264, 23 USPQ2d 1780, 1782 (Fed. Cir. 1992); *Merck & Co. v. Biocraft Labs., Inc.*, 874 F.2d 804, 807, 10 USPQ2d 1843, 1846 (Fed. Cir. 1989); *In re Fracalossi*, 681 F.2d 792,794 n.1, 215 USPQ 569, 570 n.1 (CCPA 1982); *In re Lamberti*, 545 F.2d 747, 750, 192 USPQ 278, 280 (CCPA 1976); *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969).

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are not persuasive.

It is noted that the argued independent claims recite a graphical representation of a status of cross connection links. Nothing in the claim refers to what the status is. Claim 3 refers to connection state which could be status. Claims 10-21 link colors to status as a state of the cross connection however the independent claim simply refer to status, which can be on, off, connected, linked, etc. A reasonable

interpretation of status can be any one of the above or one that simply communicates to the user some state or function.

Applicant argues that Despotidis does not teach graphically representing the cross connect links

Applicant's argue that Despotidis does not teach graphically representing the cross connect links within the network elements as respective icons displayed on said network objects because they do not interpret the section cited by the examiner as showing that the network elements are displayed with icons on the respective elements (See argument page 8).

The Examiner disagrees.

Column 4, lines 25-67 were used to show the user selects network elements between start and end nodes while provisioning a circuit and the interface displays to the user all related network elements to complete the provisioning of related circuits. The user selects the network elements displayed as sub-maps of the entire network to allow the user to see individual sections of the network. Column 5, lines 57-67 states that the graphical connections allows the user to see the communications links between nodes during the provisioning process Further the graphical system feature updates the graphical representation of the elements with **various parameters** as they are connected and selected, which is a status. Further, the representation is dynamically updated for the user. Column 6, lines 1-12 state the user can see the displayed icons that represent the physical network elements Therefore, a dynamically updated icon that represents a physical network element with dynamically updated parameters as the connections are selected and connected is a mechanism to display status on the icons representing the physical network elements.

Applicant argues the 103 combination

Applicant argues the combination of Despotidis in view of Planas does not establish a prima facie case of obviousness because they argue that the icons displayed in Planas indicate the type and capacity of the node it represents and not the status of the node (See argument page 5).

The Examiner disagrees.

The symbols indicating type and capacity are precisely what the examiner refers to as status. First, Planas clearly teaches using the known standard OSI status states for network objects, which are shown in tables/figures 5-12, which clearly show an icon communicating state to the user graphically through color and icon type directly on the physical network element. Third, Figure 2e shows a cross connected switch with a crossed box and a transport cross connect with a 4 diamond shape icons. Further, figure 2f, shows the ITU used to show the type and capacity of the node. Figure 4c expressly shows a set of physical network elements with a cross connect icon displayed on the network element. Figure 15, shows the icon with control states and administrator states as defined by the OSI standard (See column 11, lines 1-35 and column 12, lines 1-19). Figure 21c clearly shows within an interface a cross connect network element 226, displayed with a modified icon on top if it to convey test status to the user along with a given color status of the connects between the nodes. Node, 220 is red because link 230 has failed which is an expressed indicator to the user as to the status. The main position on Planas is the Planas conveys to the skilled artisan that a variety of status indicators are visually displayed to the user based on network actions. The status and icons are based on the ITU and OSI standards that are known in the art and are more importantly shown in figures 5-19. It appears applicant is choosing to interpret Planas based on one section of the reference. MPEP 2123 and 2144 state that a reference is available for all that it contains and suggests to one of ordinary skill in the art. In this case, the examiner cited several sections of the reference to teach what the icons show. In summary, the claims remain rejected over the prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Theriault whose telephone number is (571) 272-5867. The examiner can normally be reached on M, W, F 10:00AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven B Theriault/
Primary Examiner
Art Unit 2179